



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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Unified Program Newsletter April 2008

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Cal/EPA

APSA Implementation Update

CUPA Grants: As of April 1, 2008 Cal/EPA has received Grant Applications from 78 CUPAs and expects the remaining 6 CUPAs to submit their applications in coming weeks. Of the 78 applications submitted, 68 have been approved and the Grant Agreements sent to the CUPAs for their final approval and signature, while 12 of the 78 grant applications are still being processed for approval. Eighteen Grant Agreements, totaling over \$1,675,000, have already been fully executed and are being forwarded to the SWRCB for payment. As a reminder, payments can not be processed without the approved local resolutions submitted to Cal/EPA. Cal/EPA staff is currently finalizing the reporting and invoice templates and will post them on the APSA webpage when they are completed, which is anticipated to be in a few weeks.

Training Program: Cal/EPA continues to work with OES/CSTI, CIWMB, and the SWRCB contracts staff to finalize the Interagency Agreements for the development and delivery of the APSA training program. USEPA has recently agreed to provide Cal/EPA and the other agencies with full access to the training materials they developed for the federal SPCC EPA Inspector Training course. In a month or so, Cal/EPA and CSTI will begin to search for training venues throughout the state. Please contact John Paine if your CUPA has adequate training facilities that maybe used to delivery the APSA Field Training, which is still planned for delivery in late summer and the fall. The ideal training facilities would accommodate 50 – 75 students in a classroom style seating arrangement.

FAQs: Cal/EPA, SWRCB staff, and legal counsel are working on the APSA Program Implementation FAQ document, developing answers to the numerous program related questions received to date. Two FAQ documents will be developed: one specific to Unified Program Agency implementation related issues; and, the other for general APSA Program related questions. At this time, several questions and answers are currently under review by our legal staff and are expected to be posted on the Cal/EPA APSA webpage in the next week or so. As the questions and answers are processed and approved they will be added to the applicable FAQ document. The APSA Grant FAQ is currently posted on the webpage.

UPAAG Develops New Strategic Plan

UPAAG met on March 28 and 29 to develop a new strategic direction for the next 3 to 5 years of Unified Program development. The planning meeting was attended by 28 managers and technical staff from all of the regional CUPA Forums, Cal/EPA, DTSC, SWRCB, OES, OSFM, and US EPA Region 9. They developed ten strategic directions with numerous specific objectives. Cal/EPA staff is packaging the work for distribution and review by the end of this month and the final draft Strategic Plan will be discussed at the next UPAAG meeting set for May 29 in San Diego.

State Water Resources Control Board

LG 133-2 – Underground Storage Tank (UST) Response Plan - Model Form

On March 24, 2008 the State Water Board updated LG 133-1 and released LG 133-2 Underground Storage Tank (UST) Response Plan - Model Form. The purpose of the letter is to transmit the updated model response plan form which reflects current UST requirements. While the State Water Board recognizes that the model form is optional, we encourage CUPAs to use the enclosed form and provide feedback as to any needed improvements. UST Program Contact: Marci Christofferson (916-341-5594; mchristofferson@waterboards.ca.gov).

LG 161-5 – Enhanced Leak Detection

On March 25th, 2008 the State Water Board updated LG 161-4 and released LG 161-5 Enhanced Leak Detection. The update added CGRS, Inc and Leak Detection Technologies, Inc as companies available to perform ELD testing. Both companies' contact information can be found in the letter. UST Program Contact: Sean Farrow (916-324-7493; sfarrow@waterboards.ca.gov).

LG 162-3 – Installation and Monitoring Requirements for Underground Storage Tanks Installed On or After July 1, 2003

On March 25th, 2008 the State Water Board updated LG 162-2 and released LG 162-3 Installation and Monitoring Requirements for Underground Storage Tanks Installed On or After July 1, 2003. The update added vendors CGRS, Inc and Leak Detection Technologies, Inc to the list of vendors with tests that have been determined to meet the ELD performance criteria and are allowable for post-installation testing. CGRS, Inc utilizes test methods Iota VaporTite-V005 and Enhanced Tracer Tight while Leak Detection Technologies utilizes MD Leak. All three test methods can be performed when there is no fuel in the system, but the Enhanced Tracer Tight and the MD Leak test may also be conducted with fuel in the UST (with local agency approval). UST Program Contacts: John Elkins (916-341-5668; jelkins@waterboards.ca.gov) or Laura Fisher-Chaddock (916-341-5870; lchaddock@waterboards.ca.gov).

Enhanced Leak Detection Notifications

The last notifications for ELD testing are scheduled to go out in April (383 new notifications, 95 withdrawal of notification, and 163 notices of non-compliance letters). It is anticipated that there will be testing firms available to handle the required testing. Copies of these letters will be mailed to the CUPA's/PA's. With this round of notifications, there may be an abundance of Requests for Reconsiderations, and CUPA's will be asked to verify information about locations of tanks, etc. as these requests are processed. Please make every effort to verify the information when asked, and to provide timely responses. Your help in these matters are always greatly appreciated and essential to making the process go smoothly.

UST Program Contact: Terry Brazell (tbrazell@waterboards.ca.gov; 916-341-5645).

Governor's Office of Emergency Services

Hazardous Material Incident Tool Kit (HMITK)

Extra, Extra, read all about it. The 2008 version of the HMITK has been updated and posted to the OES website. This version cleans up some of the changes to State and Local law over the past few years as well as identifies changes in agencies such as Cal Fire and the California Department of Public Health. You will find an additional document on the webpage that lists out the specific changes from the 2006 version to the 2008. You can access the Tool Kit by going to the following web link:

<http://www.oes.ca.gov/Operational/OESHome.nsf/Content/333C7C454B5FC40B882571070069A855?OpenDocument>

For comments or suggestions please contact Trevor Anderson at (916) 845-8788 or email trevor.anderson@oes.ca.gov

Hazardous Materials Emergency Preparedness (HMEP) Grant

The second quarterly activity for the HMEP Grant is due April 15 and is for the period of January 1 through March 31. OES is currently working on updating the HMEP Planning Guide, and it should be completed in early April and available on the OES web site.

This month OES is attending a conference with the DOT Federal Government at the National Association of SARA Title III Program Officials (NASTTPO) conference in Savannah, GA. The attendees will meet with the Federal Government to discuss the HMEP Grant. There has been talk about increasing the grant by 70 percent, however, no official word has been sent. After the conference LEPCs/CUPAs will be updated. The NASTTPO is made up of members and staff of State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), various federal agencies, and private industry.

For HMEP questions (Documentation, reimbursement, guidelines, etc.) please contact Ronald Olguin at (916) 845-8765 or email ronald.olguin@oes.ca.gov

Haz Mat Team Typing Inspections

OES Fire & Rescue Haz Mat is conducting Haz Mat Team Typing inspections of Haz Mat Teams in the State of California to determine if they qualify for one of the three types to provide Haz Mat Mutual Aid in the state. There are 127 Haz Mat Teams in the state.

For scheduling inspections contact Jan Dunbar at (916) 845-8483 or email at jan.dunbar@oes.ca.gov

Business Plan Forms Update

On February 20, 2008, OAL approved the amendment to Title 19, Division 2, Chapter 4, Article 4, Section 2729.2 and Appendix A I, II, III and Appendix B I, II, III. This change without regulatory effect conforms three Office of Emergency Services Hazardous material reporting forms and instructions in Title 19 with counter-part forms in Title 27, which were changed in December of 2007 by the California Environmental Protection Agency. The forms are:

- Unified Program Consolidated Form - Business Activities Page
- Business Owner/Operator Identification Page
- Hazardous Materials Inventory - Chemical Description Page

The approval was filed with the Secretary of State on February 20, 2008. The changes are already listed on OAL's website.

For questions please contact Brian Abeel at (916) 845-8768 or email him at brian.abeel@oes.ca.gov

SB391 - Area Plan - Pesticide Drift Protocols

Rulemaking record has gone to the Office of Administrative Law for final review. It was received by OAL on April 12. OAL takes 30 working days to review the rulemaking file for compliance with the Administrative Procedure Act. Once OAL is satisfied that the rulemaking satisfies the elements of the APA, the regulations are filed with the Secretary of State, and become effective 30 days after that. If no revisions are required by OAL, it is anticipated that the pesticide drift regulations will become effective in mid- to late-May 2008.

For questions please contact Jack Harrah at (916) 845-8759 or email jack.harrah@oes.ca.gov

Available Training

OES Haz Mat staff is available to provide Business Plan, Area Plan, Spill Release Reporting, and CalARP technical assistance at individual CUPA offices. Contact Fred Mehr or Radhika Majhail if you have any training needs. Fred Mehr can be contacted at (916) 845-8754 or by email at fred.mehr@oes.ca.gov. Radhika Majhail can be contacted at (916) 845-8776 or by email at radhika.majhail@oes.ca.gov

OES provided one-on-one Business Plan technical assistance at Lake County CUPA. OES Haz Mat and CUPA staff reviewed the Business Plan laws and regulations then conducted field inspections at regulated businesses.

New Employee

Radhika Majhail, Hazardous Substances Scientist. Radhika will represent the OES Hazardous Materials Unit as a Unified Program OES evaluator, trainer, forum liaison, and provide technical assistance to Unified Program stakeholders. Radhika can be contacted at (916) 845-8776 or by email at radhika.majhail@oes.ca.gov

Potential for DHS Regulations to Interfere with Reporting of Information Required Under EPCRA and Clean Air Act Section 112R

Per EPA Headquarters Office, facilities subject to Department of Homeland Security's (DHS) Chemical Facility Anti-Terrorism Standards (CFATS) program may not withhold information required by EPCRA, CAA Section 112(r), or any other previously existing federal requirement as they are still subject to those requirements. Facilities have cited nondisclosure or confidentiality agreements relating to implementation of the Department of Homeland Security's new Chemical Facility Anti-Terrorism Standards (CFATS). DHS' own regulations are quite clear on this point. In section 27.405 of the CFATS regulations (Review and Preemption of State laws and Regulations), it states: "Nothing in this regulation is intended to displace other federal requirements administered by the Environmental Protection Agency, U.S. Department of Justice, U.S. Department of Labor, U.S. Department of Transportation, or other federal agencies."

In the preamble to the regulation, DHS further clarifies this provision, specifically indicating that CFATS has no effect on EPCRA, CAA section 112(r), and other laws administered by EPA. The preamble states "At this time, we do not intend to displace or otherwise affect any provisions of Federal statutes, including the Emergency Planning and Community Right to Know Act, 42 U.S.C. 11001 et seq., or section 112(r) and 114 of the Clean Air Act of 1990, as amended, 42 U.S.C. 7412(r), 7414, sections 308 and 402 of the Clean Water Act, 33 U.S.C. 1318, 1342, and section 104(e)(7) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9604." The regulation and preamble language are consistent with similar language contained in the statute authorizing the CFATS program (Public Law 109-295, Section 550).

At the headquarters level, EPA and DHS officials have confirmed that the current intent of the CFATS regulations remains in accordance with the above understanding and that information required to be submitted under EPCRA and CAA Section 112(r) is not Chemical-Terrorism Vulnerability Information (CVI). EPA Headquarters has sent clarifying information to all the EPA EPCRA / RMP listserv members regarding this issue.

For questions please contact Brian Abeel at (916) 845-8768 or email him at brian.abeel@oes.ca.gov